

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 96-167-C - ORDER NO. 97-147

FEBRUARY 21, 1997

IN RE: Application of Ameritech Communications) ORDER
International, Inc. for a Certificate of) DENYING
Public Convenience and Necessity to) PETITION
Provide Intrastate Resold Telecommuni-)
cations Services within the State of)
South Carolina.)

This matter comes before the Public Service Commission of South Carolina (the "Commission") on the Petition for Clarification and/or Reconsideration of Order No. 97-46 as filed by the Consumer Advocate for the State of South Carolina (the "Consumer Advocate"). In his Petition, the Consumer Advocate requests that the Commission reconsider its ruling in Order No. 97-46. In that Order and previous Order No. 96-781, the Commission granted a Certificate of Public Convenience and Necessity to Ameritech Communications International, Inc. ("Ameritech") and ruled that Ameritech is relieved of its requirement to file maximum rates for business services, credit card services, operator services, future private line services, and customer network offerings. The Order also granted relaxed filing requirements for the same services. For the reasons stated below, the Petition is hereby denied.

The Consumer Advocates states that the Commission's grant of such alternative regulation is a violation of S.C. Code Ann. §58-9-585 (Supp. 1996), as no evidence was presented in this case to satisfy the statute. The Petition of the Consumer Advocate state that §58-9-585 is "the only means by which the Commission may choose to 'not fix or prescribe the rates, tolls, charges, or rate structures' for a telecommunications service of an interexchange telecommunications carrier," and that the Commission incorrectly utilized other means to award relief to Ameritech under another procedure.

The Commission discerns no error by its decision in Order Nos. 96-781 and 97-46. By its statutory authority and regulatory responsibility, the Commission "is vested with power and jurisdiction to supervise and regulate the rates and services of every public utility in this State and to fix just and reasonable standards, classifications, regulations, practices, and measurements of service to be furnished, imposed, or observed, and followed by every public utility in this State." S.C. Code Ann. §58-3-140 (Supp. 1995). Further, S.C. Code Ann. §58-9-720 provides in relevant part that "[t]he Commission may, upon its own motion..., ascertain and fix just and reasonable classifications, regulations, practices or service to be furnished, imposed, observed and followed by any or all telephone utilities...."

As we stated in our Order No. 96-55 (Docket No. 95-661-C), the price cap regulation, which was originally modified by Order No. 95-1734, was not instituted pursuant to S.C. Code Ann.

§58-9-585 (Supp. 1995), but was instituted by Commission Order No. 84-622, dated August 2, 1984. Order No. 84-622 was never appealed or overturned and it is therefore the law under which interexchange carriers have been operating since 1984. The Commission certainly has authority to modify a practice which the Commission instituted by Commission Order originally. The Commission therefore finds no merit in the Consumer Advocate's argument.

As an additional argument, the Consumer Advocate asserts that the Commission has exceeded its statutory authority, because S.C. Code Ann. §58-9-585 (Supp. 1995) is the only authority under which the Commission may choose to remove price caps for services provided by an interexchange carrier. The Consumer Advocate asserts that the Commission has acted in excess of its statutory authority in violation of S.C. Code Ann. §1-23-380(A)(6)(b). As quoted above, the Commission granted general regulatory authority, and under the general regulatory authority, the Commission may "ascertain and fix just and reasonable classifications, regulations, practices, or service to be furnished, imposed, observed and followed...." S.C. Code Ann. §58-9-720 (1976). The Commission believes that it has the authority to modify its prior Orders, and therefore, we deny reconsideration on this argument.

The Consumer Advocate further argues that S.C. Code Ann. §58-9-585 (Supp. 1995) is a later enacted statute and specific legislation which would supersede the Commission's general authority. By Order No. 96-377, the Commission has not released

its regulatory control over the business services of Ameritech as envisioned by S.C. Code Ann. §58-9-585 (Supp. 1995). While the Commission has allowed the price caps to be removed, the Commission will continue to regulate Ameritech and to enforce S.C. Code Ann. §59-9-210 (1976), which requires that all telephone utility rates be just and reasonable. The Commission believes that it has properly exercised its authority, and therefore, the Commission rejects the Consumer Advocate's next ground for reconsideration.

Finally, it should be noted that Ameritech's Amended Application does not request relief under S.C. Code Ann. §58-9-585 (Supp. 1995), but instead requests that its business service offerings be regulated pursuant to the procedures described and set forth in our Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C and in Docket No. 96-051-C. Ameritech states in its Amended Application that its intent by this request is to have its business services regulated in the same manner as the Commission permitted for AT&T Communications of the Southern States, Inc. and Bell Atlantic Communications, Inc. Therefore, Ameritech never requested relief under S.C. Code Ann. §58-9-585 (Supp. 1995) but requested relief under the regulatory scheme as described in the Orders in the above listed Dockets. S.C. Code Ann. §58-9-585 (Supp. 1995) need not be applied.

Additionally, the Consumer Advocate, in this Petition, requests clarification of Order No. 97-46. As noted, in Ameritech's Amended Application, Ameritech requested alternative

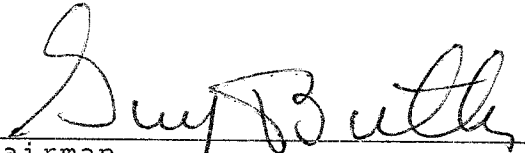
regulation that would 1) remove maximum rate tariff requirements for business services, consumer card and operator services, future private line services, and customer network type offerings; and 2) that tariff filings for these uncapped offerings would be presumed valid upon filing. If the Commission instituted an investigation of a particular filing within seven (7) days, the tariff filing would be suspended until further Order of the Commission. We granted that request in Order Nos. 96-781 and 97-46. However, according to the Petition, the Consumer Advocate states that the Commission's Order was not sufficiently specific in regards to the requirement of filing and maintaining maximum rates for the above listed services.

We note that it was the Commission's intent in Order No. 96-781 and in Clarifying Order No. 97-46 to grant Ameritech's request that the Company will not be required to file and maintain maximum rates for business services, credit card services, operator services, future private line services, and customer network offerings. To the intent that those Orders did not clearly accomplish that result, they are hereby modified to do so.

Because of the reasoning stated above, the Commission hereby denies the Consumer Advocate's request for reconsideration and/or clarification of our Order No. 97-46.

This Order shall remain in full force and effect until
further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)